

Davis Polk

Maura Douglas
+1 212 450 3957
maura.douglas@davispolk.com
davispolk.com

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, NY 10017

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Electronic Delivery

Hon. Eric R. Komitee
United States District Court for the
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Capogrosso v. Gelbstein et al., No. 18-CV-2710 (EK) (LB)

Dear Judge Komitee:

I represent Defendant David Smart in his motion for summary judgment in the above-referenced matter. Pursuant to your Honor's Individual Rule I(C), I am writing to request an extension of time for Mr. Smart to submit his reply brief in support of his motion for summary judgment from the current deadline of August 8, 2021 to September 10, 2021. This Court recently granted the State Defendants' request to extend its deadline to file their reply brief on September 10, 2021. See ECF No. 243.

This request is necessary because Mr. Smart just received supplemental opposition papers on Monday, August 2, 2021 from Plaintiff Capogrosso. On June 29, 2021, when Plaintiff's response initially was due, Plaintiff filed a request for an extension of time to respond to Mr. Smart's motion for summary judgment. See ECF No. 233. The same day, Plaintiff filed an "affirmation" in opposition to Mr. Smart's motion, which purported to set forth responses to Mr. Smart's Rule 56.1 Statement. See ECF No. 239. Mr. Smart seeks additional time to review Plaintiff's supplemental filing and reply to the entirety of Plaintiff's submission appropriately.

This is Mr. Smart's first request for an extension of time to file his reply papers. I contacted Plaintiff earlier today in order to obtain his consent to Mr. Smart's request. Plaintiff consented to a 30-day extension of time but stated that this would be to August 29. Plaintiff did not give a reason as to his refusal to an extension to September 10. I thank the Court for its time and attention to this request.

Respectfully,



Maura Douglas

Cc: All counsel of record via ECF

Mario Capogrosso
21 Sheldrake Place
New Rochelle, NY 10804
(via FedEx)

Davis Polk

Sadiq Tahir
2994 Coney Island Avenue
Brooklyn, NY 11235
(via FedEx)